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**ATTORNEY FOR DEFENDANTS**

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF MONTANA**  
**MISSOULA DIVISION**

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**NATIVE ECOSYSTEMS COUNCIL,  
and ALLIANCE FOR THE WILD  
ROCKIES,**

**Plaintiffs,**  
**vs.**

**TOM TIDWELL, Northern Region  
Regional Forester, and UNITED  
STATES FOREST SERVICE, an  
agency of the U.S. Department of  
Agriculture,**

**Defendants.**

**CV 08-173-M-DWM**

**DEFENDANTS' UNOPPOSED  
MOTION TO DISMISS  
COMPLAINT**

The Federal Defendants, by and through their counsel, move the Court to dismiss the complaint. The grounds for this motion are set forth below.

As noted in the attached letter from Charlene F. Bucha Gentry dated February 25, 2009, (Exhibit A) and in the wake of changed conditions in the area of the proposed project, the Forest Service has withdrawn the decision authorizing the Barton Springs Thinning project on the Beaverhead-Deerlodge National Forest . Therefore, dismissal of the complaint is warranted and appropriate. Counsel for the Plaintiffs has been contacted and does not oppose this motion.

**DATED** this 26th day of February, 2009.

**WILLIAM W. MERCER**  
**United States Attorney**

/s/ Mark Steger Smith  
**MARK STEGER SMITH**  
**Assistant U.S. Attorney**  
**Attorney for Federal Defendants**

**CERTIFICATE OF SERVICE**

I certify that on the 26th day of February, 2009, the United States Attorney's Office served copies of the attached document by CM/ECF as follows:

Addressee(s):

Timothy M. Bechtold  
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Attorney for Plaintiffs

/s/ Mark Steger Smith  
**MARK S. SMITH**  
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